

## **MEMORANDUM**

**TO: NEGOTIATED RULE MAKING COMMITTEE**

**FROM: Osage Minerals Councilman Melvin Core**

**SUBJECT: Rule 226.19**

### **226.19 Use of Surface of land**

The above referenced regulation provides for the lessee to use so much of the surface of the land that may be reasonable for operations, and the right-of-way for ingress and egress to any point of operations.

At one time in the past, the Osage County Cattlemen's Association proclaimed that the regulations did not apply to them and they would not comply with its terms. Whenever one of the association's land owners received notice that an oil lessee had a lease that is on their property and intends to commence drilling operations, the surface owner would put a lock on the gate and would not allow the oil lessee ingress or egress to the point of operations. This occurred many times during the course of refusal to allow operations on the land.

It took the efforts of the Osage Agency, Bureau of Indian Affairs, the Secretary of the Interior and finally the U.S. Attorney who executed "restraining orders" to allow the oil lessee on for drilling purposes. Also, the Secretary later included an amendment to the regulations to use arbitration proceedings in the cases of the amount of damage to be paid.

Even now it is becoming necessary for lessees to find alternate methods of being able to enter or leave premises for drilling purposes – such as going through the courts and filing injunctions. The District Court is being used for this purpose, but it may be necessary to use Federal Courts which would be very time consuming and the lease terms could expire.

Unless the Federal government exerts itself to force the surface owners to comply with this section of the regulations, 226.19, all effort that is being done under this section by this Rules Committee will have little or no effect.